

MINUTES
UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD MEETING

March 11, 2004

Board Members Present: Judy Lever (Chair), Craig Anderson (Vice-Chair), Cullen Battle, Michael Brehm, Scott Bruce, Carlton Christensen, David Cunningham, William Doucette, John Newman, Dianne Nielson, Scott Widmer.

Staff Members Present: Dennis Downs (Executive Secretary), Scott Anderson, Ralph Bohn, Marty Gray, Dale Marx, John Menatti, Roy Van Os, Don Verbica, Paul Zahn, Carl Wadsworth, Raymond Wixom.

Others Present: Brent Warren, Scott Warren, Bernie Allen, Dale Ormond, Kris Snow, Jim Wangsgard, Romney Stewart, Elizabeth Lowes, Clint Warby, Tim Orton, Rick Pratt, Dan Shrum, Richard Langton, Craig Galli, Richard Rathbun, Joe Majestic.

I. The meeting was called to order at 1:10 p.m.

Scott Bruce, new Board Member, was introduced. Mr. Bruce is employed by Kennecott Utah Copper and will be representing the Mining Industry on the Board.

(Two staff members were also introduced.) Shane Bekkemellom is Brad Johnson's new Administrative Secretary and will be providing assistance to the Board with UST matters. Terry Summer, a secretary in the Division of Solid and Hazardous Waste, will be providing assistance to Arlene Lovato in preparing the Board packets and room set-up as needed.

II. It was motioned by William Doucette and seconded by Scott Widmer and unanimously carried that the February 12, 2004, Board Meeting minutes be approved with the following corrections: under the UST Update Section, Page 1, 5th Line, sentence should read: "Even though they are ~~owned by~~ on Indian land, the State of Utah has jurisdiction over these facilities."; under the Chemical Demilitarization - TOCDF Update Section, Page 5, 5th Line, sentence should read: "As trial burn data ~~is~~ was received from the liquid incinerator trial burn, they discovered one drum where they exceeded their mercury emissions."

III. Underground Storage Tank Update

Brad Johnson, UST Executive Secretary to the Board, was excused from the meeting. Mr. Johnson was represented at the meeting by Dale Marx. The UST statistical summary was sent previously to board members. The data and figures are now in a new format and will be sent to board members in the monthly Board Packet.

Utilizing a Power Point presentation, Paul Zahn, LUST/RA Section Manager, gave an overview of Utah's Leaking Underground Storage Tank Program. A copy of this

presentation is available at the Division office if someone should want a copy. (The LUST Program consists of two of the three sections within the Underground Storage Tank Branch; the Petroleum Storage Tank Section and the Remedial Assistance Section.) It was suggested that it might be a good idea that this presentation (specifically the Brownfields information) be presented to the League of Cities and Towns meeting that will be held in Salt Lake City in September of this year.

IV. Commercial/Federal Facilities

Site-specific treatment variance request from Envirocare of Utah, Inc.
(Board Action Item) – Don Verbica & Otis Willoughby

Cullen Battle declared a conflict of interest and informed the Board that he would not participate in any discussion or voting that might take place concerning this matter.

Envirocare of Utah, Inc. has submitted a request for a one-time, site-specific treatment variance for P015, Beryllium Dust. Envirocare proposes to receive a waste stream from a generator that carries the listed waste code for beryllium dust (P015). The waste consists of less than five cubic feet of spent product material from machining operations. The technology based treatment code for this material is either RMETL or RTHRM. Both of these treatment codes are designed to recover the beryllium metal from the waste, but because this waste also contains radioactive isotopes and the radioactivity cannot be removed from the recovered metal, it would be unsafe to recover the beryllium and an alternative treatment process is required.

The treatment variance request, if approved, would allow Envirocare to pretreat the beryllium dust with a cement grout. The grout and waste will form a solid monolith that will then be encapsulated in a polyethylene coating to retard leachability. The encapsulation will be done according to Envirocare's permit. All other contaminants associated with this waste stream are below Land Disposal Restrictions and meet disposal requirements at the Facility. Final disposal of the waste is proposed to occur in the Mixed Waste Landfill Cell at the Envirocare Mixed Waste Facility.

A 30-day public comment period on this variance request began on February 3, 2004 and ended on March 3, 2004. No comments were received.

Don Verbica clarified that as long as the waste meets the concentration limits established under Envirocare's radioactive material license it can receive the waste. Therefore, the request is brought before the Solid and Hazardous Waste Control Board and not the Radiation Control Board.

****It was motioned by Carlton Christensen, and seconded by William Doucette and majority ruled that the request from Envirocare of Utah, Inc. for a one-time, site-specific treatment variance for P015, Beryllium Dust be approved. (Mr. Battle recused himself from the vote.)**

V. Variance Policy Proposal

Dennis Downs stated that during the last Board meeting, the Board had discussed options for adding variance language to the rules, which would identify more clearly the expectations of the Board, including the kind of information the Board would like to receive, prior to granting a variance.

Since the last Board meeting, input was received from Cullen Battle, Craig Anderson and Judy Lever. Based on their input, Raymond Wixom prepared some proposed language for consideration. (The Variance Update and the Draft Variance Amendments to Hazardous Waste Rules, Solid Waste Rules, prepared by Mr. Wixom, was included in the Board's packet.)

Mr. Battle agreed on the approach Mr. Wixom proposed, stating his concerns were addressed in the Executive Summary. Ms. Lever stated that she was also pleased with the proposal, but was concerned that in one section, the conceptual equivalency was deleted. (Mr. Wixom stated he had not had an opportunity to review Ms. Lever's stated concern.) Mr. Anderson stated that another concern discussed with Mr. Wixom was the possibility of also including the materials that the Board receives in support of an application in the administrative record. Mr. Anderson felt that if there was review of the record, the information that the Board relied on for its decision would be in the record, to support the Board's decision.

Also, an error was noted on Page 2, R315-317-2 Variances, Section (2), regarding public comment requirements, this language should not be stricken.

Mr. Wixom stated that R315-317-2. Variances, Section (c) was stricken because it was not necessary. He reiterated that the Board should generally leave itself the broad discretion over variance requests that the Legislature has granted. The Board has clarified in both the hazardous waste rules and the solid waste rules that it will not grant a variance in violation of federal law. Absent a specific need, Mr. Wixom felt it is not necessary or desirable for the Board to further define by rule how it will make case-by-case determinations of variance requests.

David Cunningham stated that the following correction: Page 3, Section (5) should read: "Nothing in sub-Paragraphs ~~(f)~~ (3) or ~~(g)~~ (4) of this rule limits the authority of the Board to grant variances in accordance with the statutory standard of 19-6-111." Mr. Wixom will correct this error.

Mr. Brehm stated this issue was brought forward to clarify the Board's role in dealing with the number of variances that have been brought before the Board. He wondered if the frequency of variance requests would change drastically if the recommended changes were adopted.

Mr. Wixom responded that he did not feel there would be any effect on the number of variances that are requested if the proposed changes were adopted.

****It was moved by Craig Anderson and seconded by Carlton Christensen and unanimously carried that the subcommittee (Cullen Battle, Craig Anderson, and Judy Lever) meet one more time to finalize the language before coming back to the Board to approve the language and then proceed with the rulemaking process.**

VI. Petition for Rulemaking (Solid Waste Landfill Siting)
(Board Action Item)

Mr. Brehm declared a potential conflict of interest and informed the Board that he would not participate in any discussion or voting that might take place concerning this matter.

Richard Rathbun, Board counsel from the Attorney General's Office, informed the Board that the petitioners had withdrawn their petition for rulemaking and there was no need for further action. (Both parties were present at the meeting.)

Craig Galli, Attorney for Petitioners, acknowledged that the rulemaking petition had been withdrawn. He stated that issuance of the permit had mooted the issue from an adjudication point of view and that his clients were evaluating their options, including an appeal of the permit itself and/or other actions. Mr. Galli further clarified that the petition for rulemaking was withdrawn because of procedural difficulties, not because of the merits.

Dianne Nielson stated that because Mr. Galli had acknowledged to the Board that the petitioners had withdrawn their petition for rulemaking, submission of a "written notice of withdrawal" to the Board was not necessary.

Mr. Battle stated that he had general concerns regarding the rules governing landfills. John Newman requested that Mr. Battle's concerns be deferred to another meeting to ensure that there was no confusion regarding the rulemaking petition and Mr. Battle's other concerns. Mr. Battle requested that Division staff summarize the current solid waste rules with respect to Class VI landfills vs. other landfills at the next Board meeting.

VII. Chemical Demilitarization

a. TOCDF Update – Marty Gray

The Army had one incident at TOCDF while draining agent from a ton container (VX Agent). Some valves were not properly aligned and agent was released onto the floor and into a sump inside the building. The agent was contained in the sump and none escaped to the environment. Some of the agent in the sump was pumped into a ton container. The remaining agent in the sump was neutralized and pumped to the Spent Decontamination Solution Tank. The Army is conducting an extensive review of the incident and possible corrective actions.

The Deactivation Furnace System is at a 75% feed rate. However, it is not operating much, due to the fact that the Army is focusing on getting the metal parts furnace ready for its trial burn. The items left for the deactivation furnace are some VX mines, which the Army intends to start burning in about a month, and energetics from the projectiles.

The trial burn for the liquid incinerators (LICs) has been completed. The LICs are currently processing at a 50% feed rate. Last month, the Board was informed that as the trial burn data was received from the LIC trial burn, TOCDF discovered one run that exceeded mercury emissions standards. An investigation has been done and information indicates that some residual mercury from the high mercury GB was washed into the SDS tanks. To ensure that Hg emissions are not exceeded, every tank of spent decon is sampled prior to feeding deacon to the LIC. The Army will continue to work on this issue.

The Army has requested additional shakedown hours for the metal parts furnace. The Army is working out the issue of ton containers coming out of the MPF still smoking. They are experimenting with different levels of agent in the ton containers, and temperatures, etc. These issues need to be worked out before the trial burn, which is expected to start around the end of March.

CAMDS is currently conducting a trial burn in its metal parts furnace, using miscellaneous waste. The waste is spiked with a heavily chlorinated surrogate and with some heavy metals.

Scott Widmer asked if the spill incident would typically result in an enforcement action?

Marty Gray stated that the spill itself would not trigger an enforcement action, but the cause of the spill and how it was managed could result in an enforcement action. The TOCDF permit has a condition that requires the facility to be operated according to certain standard operating procedures (SOPs) which are designed to protect human health and environment. If the TOCDF does not follow SOPs, or does not follow proper maintenance procedures, these types of issues can lead to enforcement action. The investigation is continuing and depending on the findings, the information may remain enforcement confidential or may be shared. The spill was self-reported.

VIII. Other Business

a. Legislative Update

Dennis Downs reported that the following bills were passed by the Legislature and are anticipated to be signed by Governor Walker: HB 13 - This bill modifies provisions relating to disposal fees and a tax on hazardous waste facilities and non-hazardous solid waste facilities; SCR1 - Senate Concurrent Resolution 1 - Approving Solid Waste Permit. This concurrent resolution of the Legislature and the Governor gives approval for the operation of the Solitude Landfill for specified non-hazardous solid waste; SCR2 - Senate Concurrent Resolution 2. This concurrent resolution of the Legislature and the Governor gives approval for the construction and operation of a Class VI Landfill (Peck Rock Products) for construction and demolition waste; and HB 123 - Drug Lab Cleanup and Disclosure Bill. This Bill will require the following: law enforcement agencies to report drug labs to the local health department; local health department to ensure these drug labs are cleaned up; the State Department of Health to establish cleanup standards; and the Department of Environmental Quality, through the Division of Environmental Response and Remediation, to develop a certification program for drug lab cleanup contractors,

which would then obligate this Board to establish rules for that certification program. (Ways to implement this bill are currently being addressed.)

The following bills did not pass: HB 254 (Siting of Landfills); HB 338 (Bottle Bill Amendments); and HB 180 (Brownfield Property Amendments). HB 180 (Brownfield Property Amendments) will be put on the Legislative Interim Study list and it is anticipated that all interested stakeholders will be providing input on this issue.

Dianne Nielson stated that DEQ's budget was approved as proposed by the legislative analyst. In addition, legislators authorized funding for a 1% ongoing Cost of Living Adjustment (COLA) for state employees and a 1% Bonus - which is, equivalent to a total 1% COLA made available as a one-time bonuses for state employees. The bonus will be calculated on a full-time employee basis, and will also extend to the local health departments. Also, there was also \$500,000 appropriated for opposition to high-level nuclear waste, so the legal challenges can be continued.

Ms. Nielson stated she felt it was a good session in terms of communication and the level of interest displayed.

b. Solid Waste Permit Update – Ralph Bohn

Mr. Bohn informed the Board of two permits that have been issued: Promontory Class I Landfill in Box Elder County and Peck Rock Products Class VI Landfill in Utah County. (A Solid Waste Facility Fact Sheet was provided in the Board Packet on these two permits. Additional information regarding the permits can be found on the Internet at www.hazardouswaste.ut.gov)

IX. The next Board meeting will be held April 8, 2004 at 1:00 p.m., in the DEQ Bldg. #2, Conference Room #101.

The June Board Meeting logistics were discussed. The June Board Meeting was tentatively scheduled for June 10, 2004, in Price, Utah. The Board will be attending a presentation regarding the Solitude Landfill Site the evening of June 9, 2004, in Green River. (Board Members will need to make their own hotel accommodations for the night of June 9, 2004, in Green River). The following morning (June 10, 2004) the Board will view the Solitude Landfill Site, i.e., overlook areas of where the Solitude Landfill will be constructed. After viewing the Solitude Landfill Site, the Board will then travel to the East Carbon Development Corporation (ECDC) Landfill Site for a tour. (The tour of ECDC is anticipated to take place at approximately 10:30 a.m.) A box lunch will be provided to all Board Members following the tour. After the tour of ECDC, Board Members will travel to Price, Utah. The Board Meeting will be held at 1:30 p.m. in Price. (Mr. Cunningham will be assisting with logistical information for the Board Meeting. Also, information on hotels accepting the state rate lodging per diem will be provided to the Board Members. Transportation needs can be provided as necessary. Board members will be reimbursed according to the State Travel Per Diem rates for this travel.)

The meeting adjourned at 2:32 p.m.